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TAGS: [ICRC](#) [PHUM](#) [KJUS](#) [PINS](#) [IR](#) [IZ](#)
SUBJECT: ICRC TO INCREASE GOI DETENTION INSPECTIONS AND
ENGAGE IN MEK TRANSFER OF AUTHORITY

REF: A. BAGHDAD 2304
[1](#)B. BAGHDAD 2519

Classified By: Deputy Political Counselor Steve Walker for reasons 1.4
(b) and (d)

[1](#)1. (S) SUMMARY: In separate meetings with PolOff and Embassy Legal Adviser on August 5, ICRC Iraq delegation members discussed their increased access to GOI detention facilities, ICRC support for USG efforts to obtain humane treatment assurances before transferring third country national detainees, and willingness to help facilitate the transfer of authority over the Mujahedin e-Khalq (MEK) from the USG to the GOI. Due to the improving security situation, the ICRC is now able to increase inspections of GOI detention facilities; it conducted its first Baghdad visit in July, a limited-scale inspection at the Rusafa Rule of Law Complex. The team has previously only inspected Ft. Suse prison in Sulaymaniyah in December 2007. ICRC said it would monitor and advise the GOI, USG, and MEK leadership with regard to the upcoming transfer of responsibility for the MEK from the USG to the GOI, including a visit to Camp Ashraf to conduct a humanitarian assessment of each MEK member. END SUMMARY.

DETENTION FACILITY INSPECTIONS INCREASING

[1](#)2. (C) In a meeting with PolOff on August 5, ICRC Iraq delegation members discussed their increased access to GOI detention facilities. Protection Coordinator Laurent Saugy and Legal Advisor Larry Maybee said that the improved security situation has enabled ICRC to increase its inspections of GOI detention facilities. An ICRC team conducted its first Baghdad visit in July, a limited-scale inspection at the Rusafa Rule of Law Complex. The team had previously only been able to inspect only one facility due to security concerns for ICRC teams, Ft. Suse prison in Sulaymaniyah, in December 2007. The delegation expressed hope that with the security improvements in Iraq and a formal agreement with the GOI, ICRC could expand its operations and have a strong, positive impact on the treatment of detainees and the conditions of detention facilities.

[1](#)3. (C) Since 1992, the ICRC has had a formal agreement with the KRG to inspect KRG and Asayish detention facilities, but it had not been active in the rest of Iraq until 2007. In 2007, the ICRC Iraq delegation made a verbal agreement with Deputy Minister of Justice Posho to inspect Ministry of Justice (MoJ) detention facilities. The ICRC also engaged with the Ministry of Interior (MoI), Ministry of Defense (MoD), and Ministry of Labor and Social Affairs (MoLSA) on inspecting their detention facilities; each agreed "in principle" to ICRC inspections. The ICRC is currently in discussions with the Ministry of Foreign Affairs (MFA) to negotiate a formal agreement that would give the ICRC access to all detention facilities in Iraq. The team hopes to complete this agreement in 2009.

TRANSFER OF TCNS

14. (C) The ICRC team discussed with Embassy Legal Adviser on August 5 USG efforts to protect third country national (TCN) detainees following their transfer from MNF-I custody to their home countries. The ICRC team expressed support for USG efforts to vet TCNs for persecution fears, and to obtain humane treatment assurances from receiving states prior to transferring TCNs. The team encouraged the USG to inform detainees of any assurances the USG may receive from states to which they will be transferred. More generally, the ICRC team asked that MNF-I stop returning released detainees to their points of capture. Many such detainees, they noted, are rearrested and tortured by MoI. They urged MNF-I to work with appropriate GOI officials, including the Minister of Human Rights, to return released detainees directly to their families (ref A).

MEK TRANSFER OF RESPONSIBILITY

15. (S) The ICRC delegation told PolOff that it would be actively involved in the upcoming transfer of security responsibility for the MEK from the USG to the GOI, including a visit to Camp Ashraf in the near future to conduct a humanitarian assessment and interview residents. They emphasized that this visit would occur after MNF-I conducts a risk assessment by conducting a census and interviewing each MEK member (ref A). (Note: MNF-I completed the census on August 10. End Note.) Once the transfer took place, ICRC

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would continue to facilitate repatriations to Iran for willing MEK members. The team also noted ICRC's intention soon to designate two ICRC employees to work full-time at Camp Ashraf. The ICRC will make an initial reconnaissance visit to Camp Ashraf on August 19, and the head of the ICRC Iraq delegation, Juan-Pedro Schaerer, will lead a delegation to visit Ashraf a week later.

16. (S) The ICRC delegation noted to Embassy Legal Adviser that it shares the USG's interpretation of the legal status of the MEK at Camp Ashraf, i.e., that because the international armed conflict in Iraq ended in 2004, and because the United States is not an "occupying power" in Iraq, the MEK have no legal right to claim protected persons status under the Fourth Geneva Convention. However, ICRC observed that MNF-I bears responsibility for protecting the MEK at Camp Ashraf for as long as MNF-I controls the camp.

17. (S) ICRC supports the USG strategy for a phased transition of authority over Camp Ashraf from the USG to the GOI. The team highlighted the importance of receiving written assurances from the GOI that it will not forcibly expel, torture, or otherwise mistreat the Camp Ashraf residents following a transfer of authority. ICRC also supported the USG's request to the GOI that the USG, or a mutually agreed third party, have access to the MEK at Camp Ashraf for as long as it remains open, in order to verify the GOI's humane treatment assurances.

18. (S) The ICRC delegation emphasized the need for the USG to respect its independence and limited mandate. The team noted, for example, that it could not, without consent, share interview results from ICRC interviews, and thus urged the USG independently to interview individual MEK members about their fears of persecution, and independently assess their wishes to remain at Ashraf, reside elsewhere in Iraq, return to Iran, or resettle in a third state. The ICRC also asked the USG to coordinate closely with ICRC before making public statements about the organization's involvement with the MEK, so as not to compromise its independence or mandate. The GOI also should be encouraged not to unilaterally broadcast ICRC's role at Camp Ashraf.

19. (C) COMMENT: ICRC's increased access to GOI detention operations and the upcoming transfer of security authority for Camp Ashraf is a positive step in the ICRC increasing its engagement in Iraq beyond its extensive humanitarian assistance activities. A larger ICRC presence will support USG efforts in promoting rule of law and will increase pressure on the GOI to improve detention operation standards and respect humanitarian assurances. Although ICRC will not relocate its Iraq delegation from Amman to Baghdad in the near future, it will continue to step up its presence around the country, including at Camp Ashraf. Post will coordinate and share information on our detention facility inspections with the ICRC and encourage the teams to expand their scope of work. We will also encourage ICRC's efforts in ensuring humane treatment of the MEK during and after the transfer of security authority.

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